

# COUNTY OF YORK

## MEMORANDUM

**DATE:** September 12, 2001 (BOS Mtg. 9/4/01)

**TO:** York County Board of Supervisors

**FROM:** James O. McReynolds, County Administrator

**SUBJECT:** Amendment to County Code § 10-16—Land Disturbing Activity

At the July 17 Board Meeting, the County Attorney recommended that the Board add a new subsection (e) to the County Code § 10-16 to implement a new state law requiring land disturbers, as a prerequisite to obtaining a Land Disturbing Activity Permit, to provide the name of an individual who had obtained a Certificate of Competency from the Virginia Soil and Water Conservation Board. The Board voiced concern that the new requirements were not accompanied with adequate training or a testing program. Staff was instructed to inquire on what the State had done in order to implement this program. In addition, the Board also wanted to know the approximate number of contractors or other parties certified under this program.

The State through its Department of Conservation and Recreation's Soil and Water Conservation Program currently has a training manual and testing programs in place. Both the training manual and practice tests, along with other useful information, are accessible over the Internet and are downloadable. In addition, the County Building Official's office has published notice of the new law and has information available to potential land disturbers on how and where to obtain the training materials and where and who to contact to take the tests. The current number of Certificates of Competence that have been issued number over 5,500 statewide. The training material, although lengthy, appears to be straightforward. For further information, links to the Department of Conservation and Recreation's web pages on this subject have been provided for you at the end of this memorandum.

In accordance with state law, the County is now requiring Certificates of Competence prior to issuance of land disturbing activity permits as the state now has the training manual and testing procedures in place. Additionally, the County assists land disturbers who may not be aware of the program in obtaining their certificates.

I believe this information answers your questions and concerns; if not, please don't hesitate to call me.

Hudgins/3755

Attachment:

FAQ's regarding the Responsible Land Disturber Program

Certificate of Competence Program

[http://www.dcr.state.va.us/sw/es\\_rld.htm](http://www.dcr.state.va.us/sw/es_rld.htm)

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Responsible Land Disturber Certification Testing  
<http://www.cns.state.va.us/dcrcertification/>



Department of Conservation & Recreation  
CONSERVING VIRGINIA'S NATURAL AND RECREATIONAL RESOURCES

## **FREQUENTLY ASKED QUESTIONS (FAQ) ON THE 2001 GENERAL ASSEMBLY REVISIONS TO VIRGINIA EROSION & SEDIMENT CONTROL LAW**

(PLEASE READ THE ACTUAL LAW REVISION FOUND ON THIS WEBPAGE)

To better serve our clients and to promote more effective communication on the recent revisions to the Virginia Erosion and Sediment Control Law, DCR has prepared this Frequently Asked Questions (FAQ) document. While this document may not answer every possible question, it covers many issues that have been frequently raised by others. We hope this document clarifies some of these issues. This document was last revised on **6/19/01**.

### **Must erosion and sediment control plan, agreement in lieu of plan, and land-disturbing permit applicants name a Responsible Land Disturber?**

Yes. The applicant must provide to the Plan-Approving Authority the name of an individual holding a valid Responsible Land Disturber Certificate who will be responsible for the land disturbing activity as a condition of approval for all erosion and sediment control plans, agreements in lieu of a plans, or land-disturbing permits.

### **Who is the Responsible Land Disturber and what does he/she do?**

The Responsible Land Disturber can be anyone from the project team or development team holding a valid Responsible Land Disturber Certificate who will be in charge of and responsible for carrying out the land disturbing activity for the project.

### **When does the new requirement for Responsible Land Disturber Certification become effective?**

Effective July 1, 2001 all projects that require approval of an erosion and sediment control plan, agreement in lieu of a plan, or land-disturbing permits shall provide the name of an individual holding a valid Responsible Land Disturber Certificate.

### **What if I submit my plan, agreement in lieu of a plan, or land-disturbing permit before July 1, 2001?**

Date of submission will not be a consideration. All regulated land-disturbing activities approved on or after July 1, 2001 will require the applicant to provide the name of an individual holding a valid Responsible Land Disturber Certificate.

### **Who is ultimately responsible for the land disturbing activity?**

The landowner is still ultimately responsible for all land disturbing activities on a project.

### **Who ensures that the plan, agreement in lieu of plan, or land-disturbing permit applicant provides the name of a Responsible Land Disturber?**

The Plan-Approving Authority (local government) shall ensure that the name of a Responsible Land Disturber is provided before approving the plan, agreement in lieu of plan, or land-disturbing permit.

### **How can the Plan-Approving Authority ensure that the certification information given by an applicant is correct?**

The Virginia Department of Conservation and Recreation (DCR) will make available on its website at <http://www.dcr.state.va.us/sw> a list of individuals recognized as Responsible Land Disturbers, their certificate numbers, and their certificate expiration dates.

**How can I obtain a Responsible Land Disturber Certificate?**

DCR is developing a certification program that will provide learning materials and an examination to obtain a Responsible Land Disturber Certificate. This new program is expected to be available via the website by the end of June 2001. Updates will be provided through your local government, your local Soil and Water Conservation District, and through DCR's website at <http://www.dcr.state.va.us/sw>.

**Can I be considered a Responsible Land Disturber if I've already obtained a different certification from DCR?**

Yes, over 7,000 individuals hold valid Combined Administrator, Program Administrator, Plan Reviewer, Inspector, and Contractor certificates. These individuals will be considered Responsible Land Disturbers without further training, certification, or fees. Their names, certificate numbers, and certificate expiration dates can be verified on our DCR website at <http://www.dcr.state.va.us/sw>. \*Please note that the Responsible Land Disturber shall be a member of the project team or development team not an employee of the Plan-Approving Authority or local government.

**Can I be considered a Responsible Land Disturber if I have Virginia Professional Engineer, Land Surveyor, Landscape Architect, or Architect License?**

Yes, an individual holding a valid Virginia Professional Engineer, Land Surveyor, Landscape Architect, or Architects License will be considered a Responsible Land Disturber without further training, certification, or fees. Their names, license numbers, and license expiration dates can be verified at the Virginia Department of Professional and Occupational Regulation's site, [www.dpor.state.va.us/regulantlookup/](http://www.dpor.state.va.us/regulantlookup/).

**What happens to erosion and sediment control plans, agreement in lieu of plans, or land-disturbing permits that don't provide a valid Responsible Land Disturbers name?**

They would be deemed incomplete and not approved until the proper information is provided.

**Is this requirement in effect throughout Virginia on July 1, 2001 even though local ordinances have not yet been updated to include the requirement?**

Yes. This requirement is law throughout Virginia effective July 1, 2001. Local governments will need to update their local ordinances to include this new law requirement. Excerpting the actual text of the state law and inserting this text into the appropriate location in the local ordinance can simplify and expedite the updating process.

**For More Information Please Contact:**

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